

09/069,088

IFW
DAC



PATENT
Customer No. 22,852
Attorney Docket No.: 06502.0129

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:)
Sheng LIANG) Confirmation No.: 3016
U.S. Patent No.: 6,954,922 B2) Examiner: Van H. Nguyen
Issued: October 11, 2005) Group Art Unit: 2194
For: METHOD, APPARATUS, AND)
ARTICLE OF MANUFACTURE)
FOR TIME PROFILING MULTI-)
THREADED PROGRAMS)

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR RECONSIDERATION OF PATENT
TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)

In accordance with 37 C.F.R. § 1.705(d), Patentee hereby requests reconsideration of the patent term adjustment under 35 U.S.C. § 154(b) of two-hundred and forty-seven (247) days indicated on the face of U.S. Patent No. 6,954,922 B2. Specifically, as described below, Applicant believes that the '922 patent is entitled to a total of three-hundred and one (301) days of additional patent term.

As required by 37 C.F.R. §1.705(d), this Request is being filed within two months of the date the above-identified patent issued and does not raise issues that were raised, or could have been raised, in a request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(b). Therefore, this request is timely.

Fee

As required by 37 C.F.R. §§ 1.705(b)(1) and (d), this Request is accompanied by a check for the \$200.00 fee set forth in 37 C.F.R. § 1.18(e). Please charge any additional required fees to our Deposit Account No. 06-0916.

Statement of the Facts Involved

U.S. Patent No. 6,954,922 B2 issued on October 11, 2005. The face of this patent indicates a patent term adjustment under 35 U.S.C. § 154(b) of 247 days. Patentee respectfully submits that the adjustment indicated on the face of the '922 patent is incorrect, and that the correct patent term adjustment should be 301 days, based on the following facts:

Relevant Dates and Bases for Adjustment

A printout of the PAIR Patent Term Adjustment History ("History"), indicating how the Office calculated the 247 day patent term adjustment, is attached hereto.

As shown in the History, this application was originally filed on April 29, 1998, and a Request for Continued Prosecution Application was filed on November 13, 2001. A Notice of Allowance and Determination of Patent Term Adjustment under 35 U.S.C. 154(b) were issued on June 1, 2005. The Determination indicated that the patent term adjustment to that date was zero (0) days. A copy of this Determination is attached. The issue and publication fees were paid on August 19, 2005. In the Issue Notification dated September 21, 2005, the Office indicated that the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) had been revised and that the patent term

adjustment was 247 days. A copy of this Notification is attached. The '922 patent issued on October 11, 2005, and the face of the patent also indicated a patent term adjustment of 247 days.

As indicated in the attached History, the '922 patent is subject to a total positive adjustment under 37 C.F.R. §§ 1.702 and 703 of three hundred thirty-two (332) days. The History also indicates that three reductions from the 332 day positive adjustment have been taken: (a) a one (1) day reduction associated with the entry, "Response after Non-Final Action," on May 28, 2002; (b) a thirty (30) day reduction associated with the entry, "Notice of Appeal Filed," on February 4, 2005; and (c) a fifty-four (54) day reduction associated with the entry, "Workflow - Drawings Finished," on August 19, 2005.

The 54 day reduction thus occurred after the mailing of the Notice of Allowance on June 1, 2005. Patentee respectfully submits that this reduction is in error. As indicated in the attached History, Patentee submitted the last set of drawings on August 15, **2003** (i.e., before the Notice of Allowance). In Section 3 of the Notice of Allowability mailed June 1, 2005 (with the Notice of Allowance), the Examiner indicated that these drawings were accepted. Thus, Patentee submits that there is no basis for the 54 day reduction in patent term adjustment indicated in the History.

Accordingly, the '922 patent is entitled to a net patent term adjustment of 301 days, calculated as follows:

332 days total positive adjustment under 37 C.F.R. §§ 1.702 and 703;

- 1 day (“Response after Non-Final Action,” May 28, 2002);
- 30 days (“Notice of Appeal Filed,” February 4, 2005);

301 days net patent term adjustment.

Terminal Disclaimer

The above-identified patent is not subject to a Terminal Disclaimer.

Reasonable Efforts

There was no circumstance constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R.

§ 1.704.

Conclusion

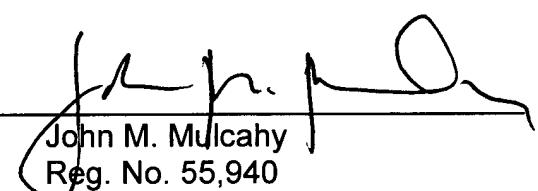
For these reasons, Patentee respectfully requests that the Office reconsider its calculation of patent term adjustment for the U.S. Patent No. 6,954,922 and indicate that Patentee's calculation of the correct patent term adjustment of 301 days has been accepted.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 8, 2005

By: _____


John M. Mulcahy
Reg. No. 55,940

Attachments:

Copy of Determination of Patent Term Adjustment under 35 U.S.C. 154(b);
Copy of Issue Notification;
Copy of PAIR Patent Term Adjustment History.



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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/069,088	10/11/2005	6954922	06502.0129-0	3016

22852 7590 09/21/2005

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SEP 26 2005
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ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment is 247 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

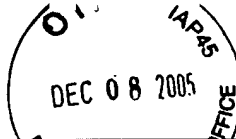
Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

APPLICANT(s) (up to 18 names are included below, see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

SHENG LIANG, PALO ALTO, CA;

OK 10
9-26-05



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PATENT APPLICATION INFORMATION RETRIEVAL



Patent Term Adjustment (PTA) for publication number: 09/069,088

			Days
Filing or 371(c) Date:	04-29-1998	USPTO Delay (PTO):	332
Issue Date of Patent:	10-11-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	85
Post-Issue Petitions (days):	+0	Total PTA:	247
USPTO Adjustment (days):	+0	Explanation of Calculations	

Search Options

Assignments
Display References
Image File Wrapper
File History
Maintenance Fees - Retrieve fees to pay
Maintenance Fees - View payment windows
Maintenance Statement - View 04 year payment window
Maintenance Statement - View 08 year payment window
Maintenance Statement - View 12 year payment window
Published Documents

Maintenance Fees Available: Mon-Fri 5:30 AM to Midnight, Sat-Sun-Hol. 7:30 AM to 8:00 PM E.T.

Patent Term Adjustment History

Date	Contents Description	PTO (days)	APPL (days)
09-21-2005	PTA 36 Months	332	
10-11-2005	Patent Issue Date Used in PTA Calculation		
09-14-2005	Receipt into Pubs		
09-13-2005	Dispatch to FDC		
09-13-2005	Application Is Considered Ready for Issue		
08-19-2005	Workflow - Drawings Finished		54
08-19-2005	Issue Fee Payment Verified		
09-12-2005	Receipt into Pubs		
08-19-2005	Issue Fee Payment Received		
06-23-2005	Workflow - File Sent to Contractor		
06-01-2005	Mail Notice of Allowance		
06-01-2005	Mail Examiner's Amendment		
06-01-2005	Mail Examiner's Amendment		
05-12-2005	Examiner's Amendment Communication		
05-12-2005	Notice of Allowance Data Verification Completed		
05-02-2005	Examiner's Amendment Communication		
04-21-2005	Date Forwarded to Examiner		
03-29-2005	Appeal Brief Filed		

03-22-2005	Case Docketed to Examiner in GAU		
02-04-2005	Notice of Appeal Filed		30
02-04-2005	Request for Extension of Time - Granted		↑
03-12-2005	IFW TSS Processing by Tech Center Complete		↑
02-01-2005	Mail Examiner Interview Summary (PTOL - 413)		↑
01-27-2005	Examiner Interview Summary Record (PTOL - 413)		↑
01-18-2005	Mail Advisory Action (PTOL - 303)		↑
01-18-2005	Advisory Action (PTOL-303)		↑
01-04-2005	Date Forwarded to Examiner		↑
12-01-2004	Amendment after Final Rejection		↑
12-01-2004	Workflow incoming amendment IFW		↑
10-05-2004	Mail Final Rejection (PTOL - 326)		↑
10-01-2004	Final Rejection		
07-20-2004	Date Forwarded to Examiner		
06-15-2004	Response after Non-Final Action		
06-15-2004	Workflow incoming amendment IFW		
04-08-2004	Mail Non-Final Rejection		
04-05-2004	Non-Final Rejection		
02-03-2004	Date Forwarded to Examiner		
01-27-2004	Response after Non-Final Action		
01-23-2004	Mail Examiner Interview Summary (PTOL - 413)		
01-22-2004	Examiner Interview Summary Record (PTOL - 413)		
10-27-2003	Mail Non-Final Rejection		
10-20-2003	Non-Final Rejection		
08-15-2003	New or Additional Drawing Filed		
08-04-2003	Date Forwarded to Examiner		
07-28-2003	Response to Election / Restriction Filed		
07-02-2003	Mail Restriction Requirement		
06-30-2003	Requirement for Restriction / Election		
05-12-2003	Date Forwarded to Examiner		
05-02-2003	Response after Non-Final Action		
02-05-2003	Mail Non-Final Rejection		
01-27-2003	Non-Final Rejection		
11-07-2002	Date Forwarded to Examiner		
10-31-2002	Response after Non-Final Action		
10-04-2002	Case Docketed to Examiner in GAU		
08-15-2002	Mail Non-Final Rejection		
08-12-2002	Non-Final Rejection		
06-05-2002	Date Forwarded to Examiner		
05-28-2002	Response after Non-Final Action		1
02-27-2002	Mail Non-Final Rejection		↑
02-25-2002	Non-Final Rejection		
12-20-2001	Date Forwarded to Examiner		
11-13-2001	Continuing Prosecution Application - Continuation (ACPA)		
12-20-2001	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		
12-14-2001	Mail Examiner Interview Summary (PTOL - 413)		
12-11-2001	Examiner Interview Summary Record (PTOL - 413)		
11-23-2001	Mail Advisory Action (PTOL - 303)		
11-23-2001	Advisory Action (PTOL-303)		

11-20-2001	Date Forwarded to Examiner		
11-13-2001	Supplemental Response		
11-13-2001	Workflow - Request for CPA - Begin		



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/069,088	04/29/1998	SHENG LIANG	06502.0129-0	3016

22852 7590 06/01/2005
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EXAMINER	
NGUYEN, VAN H	
ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 06/01/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.